

## Department of Justice

## § 40.18

(6) *Evaluation.* A description of the plans for periodic evaluation of the grievance procedure, including identification of the group, individuals or individual who will conduct the evaluation and identification of the person or entity not under the control of supervision of the institution who will review the evaluation, together with two copies of the most recent evaluation, if one has been performed.

(c) *Fair and effective procedures.* The Attorney General shall also certify a grievance procedure under the Act, even if the procedure is not in substantial compliance with the standards promulgated herein, if the Attorney General determines that the procedure is otherwise fair and effective for the consideration and disposition of grievances filed by inmates. If a grievance procedure is not in substantial compliance with all standards herein, the applicant shall identify the aspects in which the procedure is in substantial compliance and those in which it is not, describe the other relevant features of the procedure, and explain why the procedure is otherwise fair and effective.

[Order No. 1955-95, 60 FR 13903, Mar. 15, 1995]

### § 40.12 Notice of intent to apply for certification.

The applicant shall post notice of its intent to request certification in prominent places in each institution to be covered by the procedure and shall provide similar written notice to the U.S. District Court(s) having jurisdiction over each institution to be covered by the procedure. The notices shall invite comments regarding the grievance procedure and direct them to the Attorney General.

### § 40.13 Review by the Attorney General.

The Attorney General shall review and respond to each application as promptly as the circumstances, including the need for independent investigation and consideration of the comments of agencies, and interested groups and persons, permit.

### § 40.14 Conditional certification.

If, in the judgment of the Attorney General, a grievance procedure that has been in existence less than one

year is at the time of application in substantial compliance with the standards promulgated herein or is otherwise fair and effective, the Attorney General shall grant conditional certification for one year or until the applicant satisfies the requirements of § 40.15, whichever period is shorter.

[Order No. 1955-95, 60 FR 13903, Mar. 15, 1995]

### § 40.15 Full certification.

If, in the judgment of the Attorney General, a grievance procedure that has been in existence longer than one year at the time of application is in substantial compliance with the standards promulgated herein or is otherwise fair and effective, the Attorney General shall grant full certification. Such certification shall remain in effect unless and until the Attorney General finds reasonable cause to believe that the grievance procedure is no longer in substantial compliance with the minimum standards or is no longer fair and effective, and so notifies the applicant in writing.

[Order No. 1955-95, 60 FR 13903, Mar. 15, 1995]

### § 40.16 Denial of certification.

If the Attorney General finds that the grievance procedure is not in substantial compliance with the standards promulgated herein or is no longer fair and effective, the Attorney General shall deny certification and inform the applicant in writing of the area or areas in which the grievance procedure or the application is deemed inadequate.

[Order No. 1955-95, 60 FR 13903, Mar. 15, 1995]

### § 40.17 Reapplication after denial of certification.

An applicant denied certification may resubmit an application for certification at any time after the inadequacy in the application or the grievance procedure is corrected.

### § 40.18 Suspension of certification.

(a) *Reasonable belief of non-compliance.* If the Attorney General has reasonable grounds to believe that a previously certified grievance procedure may no longer be in substantial compliance with the minimum standards or may